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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,920

10/13/2004

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EXAMINER

SLITERIS, JOSELYNN Y

ART UNIT

PAPER NUMBER

3616

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/711,920	Applicant(s) BROWN ET AL.	
	Examiner JOSELYNN Y. SLITERIS	Art Unit 3616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 9 and 16-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10, 11 and 15 is/are rejected.
- 7) ☒ Claim(s) 5-8 and 12-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 October 2007 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgement

1. Examiner acknowledges receipt of applicant's Amendment to the Claims, Specification, and Drawings (filed 10/1/07).

Election/Restrictions

2. Applicant's election without traverse of Species I disclosed in Figures 1 and 2 and paragraphs 17-22, 25-32, 34-40, 42-46, and 48-50 in the reply filed on 4/13/07 is acknowledged.
3. Applicant indicates that claims 1-20 correspond to the elected species; however, examiner disagrees. It is the examiner's position that claims 9 and 16-19 are directed to the nonelected species as disclosed in paragraphs 23, 33, 41, and 47. Therefore, claims 9 and 16-19 remain withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 4/13/07.

Drawings

4. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "18" (Fig. 1) has been used to designate both controller and inflator device. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the

immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

5. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: 16, 124. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

6. The drawings are objected to because Fig. 3 is missing. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing

should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

7. The disclosure is objected to because it is replete with informalities. Here is an example: in (Para 18) line 3, “airbag system 14” should be changed to --seatbelt restraint system--; etc; etc.

Appropriate correction is required, and applicant is advised to thoroughly review the application and correct any other errors of which applicant becomes aware in the specification.

Claim Objections

8. Claims 10-15 are objected to because of the following informalities: in claim 10 line 10, "said seatbelt load" should be changed to --a seatbelt load--. Appropriate correction is required.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-4, 10, 11, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Stanley (U.S. Patent 6,260,879), as cited by applicant.

11. Regarding claims 1-4, Stanley discloses a safety restraint system as in the present invention, comprising:

a seatbelt restraint system including a seatbelt restraint 34 and a seatbelt tension sensor 50, 52;

a variable-output airbag system 20; and

a controller 70 coupled to said seatbelt restraint system and said variable-output airbag system, said controller for actuating said variable-output airbag system to deploy said airbag at an output rate during a crash event, said controller for throttling said output rate based on a current seatbelt load rate in said seatbelt restraint during a crash event;

further comprising: at least one weight sensor 40; wherein said controller determines said output rate for said airbag based on said weight;

wherein said controller determines said output rate based on the weight of said occupant;

wherein said controller determines at least one of a maximum threshold and a minimum threshold for said seatbelt-tension rate based on the weight of said occupant.

Examiner notes the limitation “for fully deploying an airbag substantially proximate in time to when said seatbelt restraint receives a maximum seatbelt load” is intended use, and as such does not serve to distinguish. Examiner further notes that it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

12. Regarding claims 10, 11, and 15, Stanley discloses a method for utilizing a seatbelt restraint system 34 and a variable-output airbag system 20 in combination for protecting an occupant of a vehicle 30 as in the present invention comprising:

determining an output rate 78 of the variable-output airbag system for deploying an airbag 22;

detecting a crash event; and

determining a current seatbelt-tension rate 50 in a seatbelt restraint 34 during said crash event; and

throttling said output rate during said crash event based on said current

seatbelt-tension rate;

wherein the occupant contacts said airbag when said seatbelt load reaches a maximum load;

wherein determining an output rate of the variable-output airbag system comprises: measuring the weight of the occupant 40; and determining said output rate based on said weight;

further comprising: determining whether said airbag has been fully deployed.

Allowable Subject Matter

13. Claims 5-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 12-14 would be allowable if rewritten to overcome the claim objection(s) set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

15. Applicant's arguments filed 10/1/07 have been fully considered but they are not persuasive.

16. Applicant argues "Stanley discloses a system for measuring the spatial proximity of a vehicle occupant to an airbag. Then, armed with information as to that spatial proximity, the airbag and seatbelt may be adjusted. In contrast, Applicant's use of the

term proximity has a temporal meaning, such that the seatbelt tensioning rate is determined and the airbag is inflated at a corresponding rate, such that the airbag is fully inflated to whatever inflation is desired at the time the maximum tension has been placed on the seatbelt”.

First, examiner notes the limitation “for fully deploying an airbag substantially proximate in time to when said seatbelt restraint receives a maximum seatbelt load” is intended use, and as such does not serve to distinguish. It has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. Ex parte Masham, 2 USPQ2d 1647 (1987).

Second, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., determining first of all a rate and time at which the vehicle occupant will apply a maximum load to a seatbelt, and using this rate to calculate a corresponding output rate for an airbag actuator to fully deploy the airbag at the same time the seatbelt is fully loaded) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSELYNN Y. SLITERIS whose telephone number is (571)272-6675. The examiner can normally be reached on Monday, Tuesday & Thursday 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached at 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joselynn Y. Sliteris/
Examiner, Art Unit 3616

/Christopher Bottorff/
Primary Examiner, Art Unit 3618

3/7/08